

ADMINISTRATIVE PANEL DECISION

Bollore SE v. Name Redacted

Case No. D2022-2735

1. The Parties

The Complainant is Bollore SE, France, represented by Nameshield, France.

The Respondent is Name Redacted.

2. The Domain Name and Registrar

The disputed domain name <bollore-logistis.com> (the “Disputed Domain Name”) is registered with EuroDNS S.A. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 26, 2022. On July 26, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On July 27, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Disputed Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on August 2, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on August 3, 2022.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on August 5, 2022. On August 10, 2022, a third party contacted the Center, claiming that their identity was used to register the Disputed Domain Name without their consent.

In accordance with the Rules, paragraph 5, the due date for Response was August 25, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Commencement of the panel appointment process on August 26, 2022.

The Center appointed Nicholas Weston as the sole panelist in this matter on August 30, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a multinational company headquartered in France with operations in more than 100 countries that includes a logistics and transportation business that has more than 20,000 employees. The Complainant holds a number of registrations for the trademark BOLLORÉ LOGISTICS in numerous jurisdictions including, for example: International Trademark Registration No. 1302823 for BOLLORÉ LOGISTICS, registered on January 27, 2016.

The Complainant owns the domain name <bollore-logistics.com> which hosts its main website.

The Respondent registered the Disputed Domain Name <bollore-logistis.com> on July 21, 2022. The Disputed Domain Name resolved to a PPC parking page. At the time of the Decision the Disputed Domain Name resolves to an inactive webpage.

5. Parties' Contentions

A. Complainant

The Complainant cites its International trademark No. 1025892 registered on July 31, 2009 and other registrations internationally for the mark BOLLORÉ LOGISTICS as *prima facie* evidence of ownership.

The Complainant submits that its rights in the mark BOLLORÉ LOGISTICS predate the Respondent's registration of the Disputed Domain Name <bollore-logistis.com>. It submits that the Disputed Domain Name is confusingly similar to its trademark, because the Disputed Domain Name incorporates in its entirety the BOLLORÉ LOGISTICS trademark and that the confusing similarity is not removed by the omission of the letter "c" from the word "logistics", or the addition of the generic Top-Level Domain ("gTLD") ".com". It submits that "(t)his is a clear case of typosquatting".

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because it resolved to a PPC parking page "and has been used in a phishing scheme, in order to obtain confidential information" and "that the Respondent is not affiliated with nor authorized by BOLLORE SE in any way".

Finally, the Complainant alleges that the registration and use of the Disputed Domain Name was, and currently is, in bad faith, contrary to the Policy and Rules and submits that "(i)t is well-established that using a domain name for purposes of phishing or other fraudulent activity constitutes solid evidence of bad faith use".

B. Respondent

The Respondent did not reply to the Complainant's contentions. However, in correspondence received by the Center on August 12, 2022, a party named as the Respondent stated, *inter alia*, that:

"I do not own, nor do not operate a domain name of any kind" and appeared to claim, in summary, that the registration of the Disputed Domain Name had been made without that party's knowledge or authorization by a third party using the correspondent's identity.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant has the burden of proving the following:

- (i) that the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- (iii) that the Disputed Domain Name has been registered and is being used in bad faith.

A. Preliminary Procedural Issue. Respondent and Redaction of Respondent's Identity

The Panel notes that the individual named Respondent appearing in the Whois record disclaims, in correspondence received by the Center on August 12, 2022, any knowledge of or interest in the Disputed Domain Name.

This Panel is satisfied that the individual named Respondent in this proceeding was not party to registration of the Disputed Domain Name, and that registration of the Disputed Domain Name was secured fraudulently by a third-party. The Panel has therefore determined that it is appropriate to redact the registrant's name and information from the Panel's decision (see: *Accenture Global Services Limited v. Domains By Proxy, LLC / Name Redacted*, WIPO Case No. [D2013-2099](#); and *Lutosa v. Name Redacted*, WIPO Case No. [D2021-0809](#)).

B. Identical or Confusingly Similar

The Complainant has produced sufficient evidence to demonstrate that it has registered trademark rights in the mark BOLLORÉ LOGISTICS in numerous jurisdictions. The propriety of a domain name registration may be questioned by comparing it to a trademark registered in any country (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2.1).

Turning to whether the Disputed Domain Name is identical or confusingly similar to the BOLLORÉ LOGISTICS trademark, the Panel observes that the Disputed Domain Name comprises: (a) a hyphenated misspelling of the Complainant's trademark BOLLORÉ LOGISTICS that omits the letter "c"; (b) followed by the gTLD ".com".

It is well established that the gTLD used as technical part of a domain name may be disregarded. The relevant comparison to be made is with the Second-Level portion of the Disputed Domain Name, specifically: "bollore-logistis" (see section 1.11 of the [WIPO Overview 3.0](#)).

It is also well established that in cases where at least a dominant feature of the relevant mark of a Complainant is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing (see [WIPO Overview 3.0](#), section 1.7).

The Panel finds that the omission of the letter "c" does not avoid a finding of confusing similarity between the Disputed Domain Name and the Complainant's trademark. "A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element." (see [WIPO Overview 3.0](#), section 1.9).

The Panel finds that the Complainant has established paragraph 4(a)(i) of the Policy.

C. Rights or Legitimate Interests

Paragraph 4(c) of the Policy lists the ways that the Respondent may demonstrate rights or legitimate interests in the Disputed Domain Name. The Policy also places the burden on the Complainant to establish

the absence of the Respondent's rights or legitimate interests in the Disputed Domain Name. Because of the inherent difficulties in proving a negative, the consensus view is that the Complainant need only put forward a *prima facie* case that the Respondent lacks rights or legitimate interests. The burden of production then shifts to the Respondent to rebut that *prima facie* case (see: [WIPO Overview 3.0](#), section 2.1).

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because (i) the Disputed Domain Name resolved to a PPC parking page and has been used to phish for confidential information; (ii) the Respondent has not acquired or owned any trademark or service mark rights in the name BOLLORÉ LOGISTICS, and has not been commonly known by the name BOLLORÉ LOGISTICS; and (iii) the Respondent is not making a legitimate noncommercial or fair use of the Disputed Domain Name without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainant's trademarks.

The Respondent is not using the Disputed Domain Name as a reseller with legitimate interests in a domain name incorporating a Complainant's mark, and there is no active website at the Disputed Domain Name, therefore it cannot meet the tests set out in *Okidata Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#). Nor, alternatively, is the Respondent commonly known by the Disputed Domain Name. The Panel accepts the Complainant's uncontested submission and evidence that the Disputed Domain Name "resolves to a parking page with commercial links ... and ... that Respondent uses the disputed domain name to pass itself off as one of the employees of BOLLORÉ LOGISTICS, in order obtain confidential information."

The Panel is satisfied that the Complainant has put forward a *prima facie* case that the Respondent lacks rights or legitimate interests. In the absence of a response, this Panel finds that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

The Panel finds for the Complainant on the second element of the Policy.

D. Registered and Used in Bad Faith

The third element of the Policy requires that the complainant must also demonstrate that the Disputed Domain Name has been registered and used in bad faith. Paragraph 4(b) of the Policy sets out certain circumstances to be construed as evidence of both of these conjunctive requirements.

The Panel finds that the evidence in the case shows the Respondent registered and has used the Disputed Domain Name in bad faith.

On the issue of registration, taking into account the composition of the Disputed Domain Name and the subsequent use of the Disputed Domain Name to enable phishing for confidential information, the Panel is satisfied that the Respondent knew of the Complainant's trademark BOLLORÉ LOGISTICS when it registered the Disputed Domain Name (see *BOLLORÉ SE v. Contact Privacy Inc. Customer 1247853759 / Angela Chaney*, WIPO Case No. [D2020-2050](#) ("the trademark BOLLORÉ LOGISTICS is registered in the Complainant's name and is widely known as identifying the Complainant's activities"); *Bollore v. Whols Privacy Protection Foundation / Anderson Paul*, WIPO Case No. [D2019-2112](#) ("Given the circumstances of the case, including the evidence on record of the use of the Complainant's trademark BOLLORÉ LOGISTICS, and the distinctive nature of this mark, it is inconceivable to the Panel in the current circumstances that the Respondent registered the disputed domain name without prior knowledge of the Complainant and the Complainant's mark"). On any view, the Respondent cannot credibly claim to have been unaware of the mark (see: [WIPO Overview 3.0](#), section 3.2.2).

In addition, the gap of several years between registration of the Complainant's trademark and the Respondent's registration of the Disputed Domain Name (containing a misspelling of the Complainant's trademark, and its use as both a PPC webpage containing words such as "Logistique" and "Transport") is a further indicator of bad faith. (See *Asian World of Martial Arts Inc. v. Texas International Property Associates*, WIPO Case No. [D2007-1415](#)). In this case, the Complainant's rights in its trademark predate

any rights that could possibly flow from the Respondent's registration by 13 years.

On the issue of use, the Complainant's evidence is that the Disputed Domain Name previously resolved to a PPC landing page with keywords including "Logistique" and "Transport" and, currently, does not resolve to an active website. The evidence also includes evidence of attempted phishing for confidential information using the Disputed Domain Name. This Panel accepts the Complainant's uncontested evidence as evidence of bad faith use.

The Panel finds that the Respondent cannot disclaim responsibility for content appearing on the PPC website associated with the Disputed Domain Name even though such links are generated by a third party platform there appear to be no positive efforts by the Respondent to seek to prevent a finding of bad faith, such as by using negative keywords to avoid links such as "Logistique" and "Transport" which plainly target the Complainant's mark (see [WIPO Overview 3.0](#), section 3.5).

This Panel also views the provision of false contact information underlying the privacy or proxy service as an additional and separate indication of bad faith (see [WIPO Overview 3.0](#), section 3.6).

There is also evidence that the Disputed Domain name has been used for fraud or phishing to impersonate an employee of the Complainant. In support of this contention is a copy of an email putatively from a Business Development Manager of the Complainant from the email address in a potentially fraudulent attempt to impersonate the Complainant to extract personal or financial data from the recipient of such communications. Past panels have held that the use of a domain name for per se illegitimate activity such as phishing is considered to be evidence of bad faith and this Panel accepts that the uncontested evidence of phishing in this case supports a finding of bad faith (see [WIPO Overview 3.0](#) at Section 3.1.4).

In the absence of any evidence to the contrary, this Panel accepts the Complainant's evidence and finds that the Respondent has taken the Complainant's trademark BOLLORÉ LOGISTICS and incorporated a deliberate misspelling of it that omits the letter "c" into the Disputed Domain Name, without the Complainant's consent or authorization, for the likely purpose of capitalizing on the reputation of the trademark to infringe upon the Complainant's rights.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(iii) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Disputed Domain Name, <bollore-logistis.com> be transferred to the Complainant.

The Panel also directs the Registrar's attention to the Annex of this decision that identifies the person listed as registrant of the Disputed Domain Name in the formal record of registration, and orders that the Disputed Domain Name, <bollore-logistis.com>, be transferred from the person so named to the Complainant. The Panel also directs the Center that the Annex shall not be published along with this Decision.

/Nicholas Weston/

Nicholas Weston

Sole Panelist

Date: September 12, 2022